

**Notice of Allowability**

Application No.

09/849,152

Examiner

Leo Boutsikaris

Applicant(s)

MCCANN ET AL.

Art Unit

2872

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed on 6/23/05.
2. ☒ The allowed claim(s) is/are 1,2,4-13,15-31,33-50,52-54,59-63,65-72,74-82 and 86.
3. ☒ The drawings filed on 23 April 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

## DETAILED ACTION

### *Allowable Subject Matter*

Claims 1-2, 4-13, 15-31, 33-50, 52-54, 59-63, 65-72, 74-82, 86 are allowable over the prior art of record for at least the reason that even though the prior art discloses optical fiber probes wherein the optical fiber is disposed within the probe body loosely and it has a portion extending from the tip of the probe body, the prior art fails to teach or reasonably suggest, regarding claims 1-2, 4, 6-9, 12, 19-27, 77, 79, a fiber optic probe, wherein the probe body proximate the tip has an inner material closely surrounding the elongate optical fiber and also another layer surrounding said inner material, with the inner material having a greater tendency to maintain its cross sectional area while being flexed up to approximately 90 degrees than said another layer while being flexed, when said another layer is free from said inner layer of material, and regarding claims 5, 10-11, 13, 15-18, 28-31, 33-50, 52-54, 59-63, 65-72, 74-76, 78, 80-82, 86, a fiber optic probe including a support for selectively maintaining the optical fiber from freely moving longitudinally with respect to the probe body, as set forth by the claimed combination.

Lee (US 6,572,608, Fig. 3) discloses an optical fiber probe used for medical applications, wherein an optical fiber is embedded in a shape memory material, which in turn is disposed within a sleeve, with the optical fiber being movable within the sleeve (lines 43-50, col. 7).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dr. Leo Boutsikaris whose telephone number is 571-272-2308.

Art Unit: 2872

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Leo Boutsikaris, Ph.D., J.D.  
Primary Patent Examiner, AU 2872  
July 10, 2005



**LEONIDAS BOUTSIKARIS**  
**PRIMARY EXAMINER**